

MAR 08 2006

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/782,539	
	Filing Date	February 13, 2001	
	First Named Inventor	Daniele C. Brotto et al.	
	Art Unit	2838	
	Examiner Name	P. Tibbits	
Total Number of Pages in This Submission	7	Attorney Docket Number	TN-1379A

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Office Action
Remarks 		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Black & Decker Inc.		
Signature			
Printed Name	Adan Ayala, Esq.		
Date	March 8, 2006	Reg. No.	38,373

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Adan Ayala, Esq.	Date	March 8, 2006

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Serial No. 09/782,539

MAR 08 2006 Response to Off. Act. of Jan. 25, 2006

UTILITY PATENT

B&D No. TN-1379A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Daniele C. BROTTTO et al.**

Serial No.: 09/782,539

Examiner: P. Tibbits

Filed: February 13, 2001


Group Art Unit: 2838

For: **POWER TOOL WITH MEANS FOR OBTAINING
PRODUCT USE INFORMATION**

Assistant Commissioner for Patents
Washington, DC 20231

RESPONSE TO OFFICE ACTION

I, Adan Ayala, PTO Reg. No. 38,373, hereby certify that this
correspondence is being facsimile transmitted to the Patent and
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Adan Ayala

Dear Sir:

This is in response to the Office Action mailed on January 25, 2006.

Claims 25-26 and 30-32 are pending in the present application.

The Examiner rejected Claims 25-26 and 30-32 on the ground of obviousness-type double patenting as being unpatentable over Claims 1-24 of US Patent No. 6,218,806 in view of US Patent No. 5,903,462. This rejection is respectfully traversed.

According to 35 USC § 121 and MPEP § 804.01, if the Examiner issues a restriction requirement requiring an election between different inventions, the Examiner cannot use the issued

Serial No. 09/782,539**Response to Off. Act. of Jan. 25, 2006****UTILITY PATENT****B&D No. TN-1379A**

patent on the elected invention against the pending application on a second invention so long as the second application was filed prior to the issuance of the first patent.

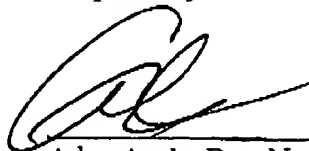
In the parent case (which resulted in the '806 Patent), the Examiner issued a restriction requirement requiring the election between Claims 1-24 and Claims 25-32, a copy of which is attached hereto. In that case, Applicants elected to prosecute Claims 1-24. Prior to issuance of the '806 Patent, Applicants filed the present case with restricted Claims 25-32.

Thus the requirements of 35 USC § 121 and MPEP § 804.01 have been met. Accordingly, the Examiner cannot use the '806 Patent as a basis for a double patent rejection against the present application. Therefore, the double patent rejection is improper. Applicants request the withdrawal of such rejection.

All the claims are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of Claims 25-26 and 30-32 are respectfully requested.

No fee is due for the present amendment. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted.



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